

### **REMARKS**

The following Remarks are made with respect to the Examiner's Statement of Reasons for Allowance ("Statement"), at page 5 of the Notice of Allowability.

Rule 1.104(e) and MPEP 1302.14 permit the Examiner to set forth a written statement of reasons for allowance under certain circumstances. In particular, certain requirements for the statement of reason(s) are expressly set forth in MPEP 1302.14, including the requirement that, "each statement should include at least (1) the major difference in the claims not found in the prior art of record, and (2) the reasons why that difference is considered to define patentability over the prior art if either of these reasons for allowance is not clear in the record" (emphasis added). The Statement with respect to all of the claims is traversed at least on the ground that it fails to comply with the aforesaid requirement of MPEP 1302.14. While the Statement may identify claimed features or elements that the Examiner considers to be the major difference(s) that are not found in the prior art of record, the Examiner's Statement has not explained reasons why such differences are considered to define patentability over the prior art. Thus, the Statement fails to satisfy express provisions of the MPEP.

Additionally, MPEP 1302.14 expressly provides that "the statement is not intended to necessarily state all the reasons for allowance or all the details why claims are allowed and should not be written to specifically or impliedly state that all the reasons for allowance are set forth." Applicants expressly reserve the right to assert in any future proceedings regarding this application or any patent(s) issuing directly or indirectly therefrom, the allowability and/or allowance of the claims on the basis of any reason(s) consistent with the prosecution history of the application. More specifically, the Statement acknowledges that U.S. Patent 6,463,585 to Hendricks lacks the features identified by the Examiner. *See Statement* at 5. However, Applicants respectfully note that additional prior art cited by the Examiner during prosecution and/or identified on the Information Disclosure Statements submitted in this application may also lack such teachings and/or claimed features. Accordingly, although not specifically noted by the Examiner in the Statement, Applicants respectfully note that the features identified by the

Examiner – either independently or in combination – may also be absent from the prior art as a whole, and thus form the basis for allowance of the present claims over prior art beyond prior art and/or reasons identified in the Statement. In addition, in previous Office Action responses and proceedings in the present application, Applicants have identified for the Examiner several features as distinguishing the claims over the prior art. Accordingly, although not specifically noted by the Examiner in the Statement, Applicants respectfully note that such features – either independently or in combination – also might form the basis for allowance of the present claims.

For the foregoing reasons, Applicants therefore denies acquiescence to such Statement and further deny being bound by any presumption or negative inferences that may flow therefrom in any future proceedings regarding this application or any patents issuing directly or indirectly therefrom.

Respectfully submitted,

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